

will be Amendment No. 19. Delegate Bothe.

DELEGATE BOTHE: Mr. Chairman, these provisions for disqualification of voters has given considerable difficulty to this Committee as they did also to the Constitutional Convention Commission, which proposed language somewhat different from that which the majority of the committee brought to the floor.

First, it is my belief in proposing that the section be deleted, that the General Assembly should have no authority of any sort to disenfranchise anyone otherwise qualified to vote. But secondly, even if I did not entertain that view, the difficulty in specifying in the constitution what kinds of people may be disenfranchised and disqualified and under what conditions is such a can of worms that I suggest it best be left closed and untouched in the constitution.

The qualifications set forth in the committee report are two. One goes to persons who have been adjudicated non compos mentis. As an attorney, I can tell you, and I think the other lawyers in this room will agree, that the procedure of adjudication of people who are mentally incompetent is very rarely used. There are many more mental incompetents in the hospitals and around the State than are adjudicated non compos mentis. I believe the figures Delegate Koss gave me were that less than five per cent of people in the mental institutions would be disenfranchised under this category if the General Assembly so chose to legislate. The other ninety-five percent of those so incompetent as to require hospitalization in a mental hospital would remain eligible to vote.

As to the category of people who have committed crimes, we had some discussion on this floor about that yesterday. As you know, the present Constitution disenfranchises people who have committed infamous crimes and obviously the Committee did not intend that the new constitution be that stringent.

I suggest to you, as a number of delegates did yesterday, that the automatic disenfranchisement of anybody because of his acts is an extremely dangerous precedent. I think if we are going to put categories for disqualification in the constitution, there are a lot more sensible ones we can set forth. For instance, we could state that a person with an IQ under 70 should not vote, or as one delegate proposed that people over a given age be automatically disenfranchised. Rather than do any such

thing, I think we ought to allow every citizen who meets the minimal qualifications the opportunity, if he sees fit, to take advantage of voting. We should not tamper with this sacred right. We have not done it in other areas of the constitution and I just feel we should not do it here. The right to vote is too important.

THE CHAIRMAN: Are there any questions of the sponsor of the amendment? Delegate Clagett?

DELEGATE CLAGETT: Will Delegate Bothe yield to a question?

THE CHAIRMAN: State the question.

DELEGATE CLAGETT: The disqualification provision of the draft constitution provided that the General Assembly shall by law establish disqualifications for voting by reason of mental incompetence or for conviction of serious crime and may provide for the removal of such disqualifications. Is that not correct?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: I believe you are right. I might add I feel that preferable to what the Committee came up with, although I would prefer that there be no such provision at all.

THE CHAIRMAN: Are there any further questions?

Delegate Cardin.

DELEGATE CARDIN: Under your amendment, Delegate Bothe, would that mean that those in penal institutions at present would be permitted to vote?

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Yes. However, a great many people in penal institutions right now are eligible to vote. I happen to live in the same district where the penitentiary is located and I gave that question a little thought when I was running for this office. (*Laughter.*)

As a practical matter, those who have a franchise in mental hospitals and prisons have not been exercising it. I have wondered sometimes why no one sought to give them the opportunity, but I do not think it would change the situation over what it is today to any measurable extent.

THE CHAIRMAN: Delegate Cardin.

DELEGATE CARDIN: Forgive me but I cannot resist asking if they are a captive electorate?